California State
Board *of* Equalization

Legislative Bill Analysis

Legislative and Research Division

Assembly Bill 2678 (Gray)
Date: 04/26/16
Program: Sales and Use Tax
Sponsor: Author
Revenue and Taxation Code Sections 6453.1 and 7101.4
Effective: January 1, 2017 to January 1, 2022

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This analysis only addresses the provisions that impact the Board of Equalization (BOE).

Summary: Requires taxable sales and purchases within a state designated fair area, as defined, to be segregated on the sales and use tax return and also mandates that 30% of the state's General Fund (3.9375%) sales and use tax revenues derived from those segregated sales and purchases be deposited into the Fair and Exposition Fund. The bill's provisions would not apply to any fair located within Los Angeles County.

Summary of Amendments. The amendments since the previous analysis delete the prior amendments that limited the taxable sales segregation requirement to Merced County fairs, and recast the bill to the original version that apply to all state-designated fairs, with the exception of any fairs in Los Angeles County.

Purpose: To provide a stable source of funding for state fairs and offer much needed help for specific fair-related purposes and projects.

Fiscal Impact Summary: Annual state General Fund sales and use tax loss of $17 million.

Existing Law: California's Sales and Use Tax Law[1] imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer, unless the law provides a specific exemption or exclusion from the sales or use tax.

California's sales and use tax rates: Effective January 1, 2017, California's statewide sales and use tax rate will be 7.25%.[2] The table below shows California's various sales and use tax rate components, that will apply as of January 1, 2017 (the table excludes voter-approved city and county district taxes):

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (Revenue and Taxation Code (RTC) Sections 6051, 6051.3, 6201, and 6201.3)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
1.25%	Local (City/County) 1.00% City and County 0.25% County	(RTC Sections 7202 and 7203); City and county general operations Dedicated to county transportation purposes

[1] Part 1 of Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).
[2] The 0.25% tax imposed under Section 36 of Article XIII of the State Constitution (Proposition 30, The Schools and Local Public Safety Protection Act of 2012) will sunset December 31, 2016.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Rate	Jurisdiction	Purpose/Authority
7.25%	Total Statewide Rate	

Proposed Law: Until January 1, 2022, this bill requires taxpayers to segregate on their sales and use tax return their sales and purchases of tangible personal property when the place of sale or use is on or within a state designated fair or any real property of a state designated fair that is leased to another party. A "state designated fair" means a fair defined in Business and Professions Code Sections 19418, 19418.1, 19418.2, and 19418.3, but specifically excludes any fair located in the County of Los Angeles.

The segregated reporting requirements would not apply to taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law[3] or the Transactions and Use Tax Law.[4]

In addition, this bill requires that 30% of the state's General Fund (3.9375%) revenues, less refunds and BOE's administrative costs, derived from those segregated sales and use tax revenues be deposited into the Fair and Exposition Fund and continuously appropriated for fair-related purposes. The requirements to transfer funds would NOT apply to the 0.25% State Education Protection Account, 0.5% Local Public Safety Fund, 0.5% Local Revenue Fund, 1.0625% Local Revenue Fund 2011, and any tax levied pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law. These requirements would also not apply to transfers made pursuant to RTC Sections 6051.8 and 6201.8 (1.75% diesel fuel sales tax rate increase), Section 7101.3 (0.25% state sales tax revenues deposited into the Fiscal Recovery Fund), or Section 7102 (sales tax revenue from the sale of diesel fuel transferred to the Public Transportation Account).

The bill takes effect on January 1, 2017 and sunsets on January 1, 2022.

Commentary:

1. **The April 26, 2016 amendments** delete the April 20, 2016 amendments that limited the taxable sales segregation requirement to only the 35th District Agricultural Association Merced County Fair and the Merced County Spring Fair and recast the bill to the April 12, 2016 version, with the exception of excluding fairs located in the County of Los Angeles. **The April 20, 2016 amendments** limited the requirement to segregate taxable sales made at a state-designated fair to two fairs only—the 35th District Agricultural Association Merced County Fair and the Merced County Spring Fair. **The April 12, 2016 amendments** included a BOE suggested amendment to delete the requirement for BOE to develop a separate form to segregate sales. The bill now requires the taxpayer to segregate sales made at a state-designated fair, but gives BOE flexibility to either modify the existing return or develop a supplemental form to capture the information. The amendments also add a January 1, 2022 sunset date and add coauthors.

2. **Identifying the state designated fairs is not complicated.** The California Department of Food and Agriculture, Division of Fairs & Exposition website identifies 78 fairs in California: the California Exposition and State Fair, 52 district agricultural association fairs, 23 county fairs, and 2 citrus fruit fairs. The site provides a list of each of these fairs including their locations and dates.

   BPC Sections 19418 references the California Exposition and State Fair in the City of Sacramento.

   BPC Section 19418.1 (district agricultural associations fairs) includes District 1 (City of Oakland), District 1-A (City of San Francisco), District 2 (City of Stockton), District 3, (City of Chico), District 4 (City of Petaluma), District 5 (City of San Francisco), District 7 (City of Monterey), District 9 (City of Eureka), District 10 (City of Yreka), District 10-A (City of Tule lake), District 12 (City of Ukiah), District 13 (City of Yuba City), District 14 (City of Watsonville), District 15 (City of Bakersfield), District 16 (City of Paso Robles), District 17 (City of Grass Valley), District 18 (City of Bishop), District 19 (City of Santa Barbara), District 20 (City of Auburn), District 21 (City of Fresno), District 21-A (City of

[3] Part 1.5 of Division 2 of the RTC (commencing with Section 7200).
[4] Part 1.6 of Division 2 of the RTC (commencing with Section 7251).

Madera), District 22 (City of Del Mar), District 23 (City of Antioch), District 24 (City of Tulare), District 24-A (City of Hanford), District 25 (City of Napa), District 26 (City of Plymouth), District 27 (City of Anderson), District 28 (City of Victorville), District 29 (City of Sonora), District 30 (City of Red Bluff), District 31 (City of Ventura), District 32 (City of Costa Mesa), District 33 (City of Hollister), District 34 (City of Cedarville), District 35 (City of Merced), District 35-A (City of Mariposa), District 36 (City of Dixon), District 37 (City of Santa Maria), District 38 (City of Turlock), District 39 (Town of Angels Camp), District 40 (City of Woodland), District 41 (City of Crescent City), District 42 (City of Orland), District 44 (City of Colusa), District 45 (City of Imperial), District 46 (City of Perris), District 48 (City of Industry), District 49 (City of Lakeport), District 50 (City of Lancaster), District 51 (City of San Fernando Valley), District 52 (City of Sacramento), District 53 (City of Ridgecrest), and District 54 (City of Blythe).

BPC Section 19418.2 (county fairs) means the Alameda County Fair, Butte County Fair, El Dorado County Fair, Humboldt County Fair, Lassen County Fair, Los Angeles County Fair, Marin County Fair, Mendocino County Fair, Merced County Fair, Monterey County Fair, Napa County Fair, Placer County Fair, Plumas County Fair, Riverside County Fair, San Benito County Fair, San Francisco County Fair, San Joaquin County Fair, San Mateo County Fair, Santa Clara County Fair, Shasta County Fair, Solano County Fair, Sonoma County Fair, and Trinity County Fair

BPC Section 19418.3 (citrus fruit fairs) includes the Cloverdale Citrus Fair, held in the City of Cloverdale, and the National Orange Show, held in the City of San Bernardino.

3. **The bill's provisions do not apply to fairs located within Los Angeles County.** There are three fairs located within Los Angeles County: the Los Angeles County Fair held in the City of Pomona, the 48th District Agricultural Association fair held in the City of Industry, and the 51st District Agricultural Association fair held in the City of San Fernando Valley.

4. **Interim events are held on state designated fairgrounds.** In addition to the various annual fairs, other events held on the designated fairgrounds include motorized racing, craft fairs, doll shows, gun shows, home and garden shows, harvest festivals, farmers' markets, cultural festivals and concerts, motor home, RV, and boat shows, and more. Events may also include corporate events, private dinner parties, and wedding receptions.

   According to the author's office, this bill's segregated reporting requirements are intended to apply to all events and activities that are held on the state designated fairgrounds.

   Taxpayers making sales at events held on state designated fairgrounds would need to segregate these sales when filing their sales and use tax returns. Taxpayers who hold a seller's permit for a permanent place of business and who make sales both at events at state designated fairs and events held at other locations, would need to segregate those sales made at state designated fairs. BOE staff would need to know what events and activities occur at state designated fairs to instruct taxpayers to properly report their sales and purchases at these locations.

5. **California Exposition and State Fair (Cal Expo) host private venues.** While Cal Expo hosts the annual California State Fair, it is also home to Bonney Field, a large sports and entertainment venue that includes food and beverage concessions and merchandise sales. Additionally, Raging Waters is a water park located within Cal Expo's grounds with dining and snack areas. However, it is not clear whether sales transactions made at Bonney Field or Raging Waters would be subject to the proposed segregation reporting requirements. Would these restaurants and snack areas be required to segregate their food and beverage sales?

   BOE staff can work with the author's office to better identify the events and activities that would be subject to the segregated reporting requirements in this bill.

6. **The first transfer of funds would occur on or around six months following the effective date of the bill.** With a January 1, 2017 effective date, the due date of the first quarterly returns and payments would be April 30. Once the returns are filed and payments made, the average processing time necessary to review the return, input the data into the system, and identify the funds is around 60 days. Thereafter, transfers would occur quarterly.

Costs: BOE will incur administrative costs to notify affected retailers, modify tax return, prepare special form, prepare a special publication, and answer inquiries from taxpayers and the general public. A cost estimate is pending.

Revenue Impact:

Background, Methodology, and Assumptions. California State Fairs and Expositions. The most current data available is the 2009 statewide data on the economic impact of state fairs and expositions from the California Department of Food and Agriculture (CDFA). This data shows that the 2009 estimated direct state (at a rate of 3.9375%) sales tax totaled $43.2 million. Staff used that data and then grew it at a factor of 31%, based on the BOE's Taxable Sales data from 2009 to 2014, which totals $56.7 million (($43.2 million x 31%) + $43.2 million).

Los Angeles County Fair sales tax revenues totaled $7.8 million in 2012, District 48 Agricultural Association totaled $2,000 in 2012, and District 51 Agricultural Association totaled $3,500 in 2009. Staff then grew these amounts using the same methodology explained above, which totals approximately $8.7 million for 2014.

Next staff subtracted the Los Angeles County fairs direct sales tax revenues of $8.7 million from the statewide 2014 direct tax revenues from all fairs of $56.7 million to equal $48 million direct tax revenues.

Staff then used the Department of Finance's Forecasted Taxable Sales Growth for 2015 (5.6%), 2016 (4.2%), and 2017 (5.7%) and applied those to the $48 million. This results in a 2017 estimated total sales and use tax for Fairs and Expositions of $56 million.

Staff then calculated that 30% of the estimated $56 million is approximately $17 million ($56 million x 30%).

Revenue Summary. The estimated 2017 total state (3.9375%) sales tax for California Fairs and Expositions, excluding the three fairs in Los Angeles County, is approximately $56 million. Thirty percent (30%) of that amount would be deposited into the Fair and Exposition Fund, which totals $17 million.

Qualifying Remarks. Staff reviewed several published articles from 2013, 2014, and 2015 stating that either attendance was up or that attendance was down, but overall revenues had increased.

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law. Staff reviewed several published articles from 2013